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Filing date: **08/14/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213573
Party	Plaintiff The BioSolve Company
Correspondence Address	JOHN H PEARSON JR PEARSON & PEARSON LLP 10 GEORGE STREET LOWELL, MA 01852 UNITED STATES patlaw@pearson-pearson.com
Submission	Motion to Compel Discovery
Filer's Name	John H. Pearson, Jr.
Filer's e-mail	patlaw@pearson-pearson.com
Signature	/John H. Pearson, Jr./
Date	08/14/2014
Attachments	Motion to Compel and Exhibit A thereto 8.14.14.pdf(831112 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE BIOSOLVE COMPANY	)	
	)	Opposition No.
	)	
Opposer	)	MARK: BIO-SOL
	)	
vs.	)	
	)	Serial No. 85/893,885
BIOCENOSIS SOLUTIONS, INC.	)	
	)	Published in the Official
	)	Gazette on September 24, 2013
Applicant	)	
	)	
	)	

**OPPOSER'S MOTION TO COMPEL**

Pursuant to Rules 26 and 37 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, The BioSolve Company ("Opposer") respectfully moves the Board for an order compelling Applicant Biocenosis Solutions, Inc. ("Applicant") to respond to Opposer's First Set of Interrogatories and Opposer's First Request for Production of Documents without objections. (Copies of these Requests are attached hereto as Exhibit A).

Such an order is appropriate because Applicant has failed to respond to Opposer's Interrogatories and Document Requests. Counsel for Opposer has made good faith efforts requesting Applicant to respond but, to date, such efforts have been unsuccessful.

## **I. BACKGROUND**

Opposer originally served Applicant with the First Set of Interrogatories on February 3, 2014, the answers to which were due on March 3, 2014. As of the date of this motion no answers, objections, or otherwise have been received by Opposer.

Opposer originally served Applicant with the Request for the Production of Documents and Things on January 29, 2014, the answers to which were due on February 29, 2014. As of the date of this Motion no answers, objections, or otherwise have been received by Opposer.

Although the parties themselves have attempted to reach an agreement, no acceptable terms have been reached. Discovery is scheduled to close on July 28, 2014.

## **II. MOTION TO COMPEL**

### **A. Opposer Has Made a Good Faith Effort to Obtain Responses From Applicant**

In accordance with Trademark Rule 2.120(e), Opposer submits that it has made a good faith effort to resolve with Applicant the issues presented in the motion. Specifically, Opposer has given Applicant ample time to respond to the Requests. As

detailed above, Applicant has not responded at all to Opposer's discovery requests.

#### **B. Applicant Forfeited its Rights to Object**

The Trademark Trial and Appeal Board Manual of Procedures ("TBMP") provides that a party which fails to respond to discovery, interrogatories or document requests during the time allowed therefore, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its rights to object to discovery on the merits. See TBMP §§403.03 and 407.01, citing *Bison Corp. v. Perfecta Chemie B.V.*, 4 U.S.P.Q.2d 1718 (TTAB 1987); *Luehrmann v. Kwik Kopy Corp.*, 2 U.S.P.Q.2d 1303 (TTAB 1987).

Applicant's discovery responses were due, on or before February 29, 2014 and March 3, 2014. Accordingly, Opposer respectfully requests that the Board order Applicant to fully respond to Opposer's First Set of Interrogatories and First Requests for the Production of Documents without objections within twenty days from the mailing date of the Board's order to this motion.

#### **IV. CONCLUSION**

For the reasons stated above, Opposer respectfully requests that the Board grant Opposer's motion to compel and order Applicant to respond to Opposer's First Set of Interrogatories and Opposer's First Request for the Production of Documents without objections within twenty (20) days from the mailing date of the Board's ruling on the motion.

Respectfully submitted,

THE BIOSOLVE COMPANY  
By its Attorneys,

DATE: August 14, 2014

/John H. Pearson, Jr./  
JOHN H. PEARSON, JR.  
WALTER F. DAWSON  
PEARSON & PEARSON, LLP  
ATTORNEYS FOR OPPOSER  
10 George Street  
Lowell, Massachusetts 01852  
Tel: (978) 452-1971  
Email: patlaw@pearson-pearson.com

CERTIFICATE OF MAILING

I hereby certify that this Opposer's Combined Motion to Compel and Motion to Extend Discovery and Trial Dates regarding Application Serial No. 85/893,885 is being filed online with the Trademark Trial and Appeal Office on August 14, 2014 and by mailing and emailing a copy to Applicant's attorney, Annette P. Heller, Esq., Heller & Associates, 400 Chesterfield Ctr., Suite 400, Chesterfield, Missouri 63017-4800.

/John H. Pearson, Jr./  
JOHN H. PEARSON, JR.

P:\data\BioSolve\36013\TTAB\8.14.14 Motion To Compel

PEARSON & PEARSON, LLP

PATENT ATTORNEYS

GATEWAY CENTER

10 GEORGE STREET

LOWELL, MA 01852

(978) 452-1971

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application Serial No. 85/893,885

Filed: April 3, 2013

For the mark: BIO-SOL

Published in the Official Gazette on September 24, 2013

THE BIOSOLVE COMPANY	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91213573
	)	
BIOCENOSIS SOLUTIONS,	)	
INC.	)	
	)	
Applicant.	)	

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

PLEASE TAKE NOTICE that pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations § 2.120(d)(1), Opposer, THE BIOSOLVE COMPANY, INC., by its attorneys, Pearson & Pearson, LLP, hereby requests that the Applicant, BIOCENOSIS INTERNATIONAL INC., answer the following Interrogatories under oath within 30 days of service:

DEFINITIONS AND INSTRUCTIONS

1. "Applicant" or "Biocenosis" means the applicant; Biocenosis Solutions, Inc., as well as its predecessors,

parents, subsidiaries, affiliates, successors and assigns, and all current and former representatives, agents, employees, attorneys, consultants, officers, directors and brokers of all the aforementioned entities.

2. "Opposer" or "BioSolve" means the Opposer, THE BIOSOLVE COMPANY, Inc., as well as its predecessors, parents, subsidiaries, affiliates, successors and assigns, and all current and former representatives, agents, employees, attorneys, consultants, officers, directors and brokers of all the aforementioned entities.

3. "Communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

4. "Documents" is used in the broadest sense allowable under Rule 34 of the Federal Rules of Civil Procedure and includes but is not limited to the original and all non-identical copies of:

(a) all communications, letters, telegrams, reports, cablegrams, telecopies, correspondence, electronic mail, memoranda, records, reports, notes, post-its, papers, contracts, logs, labels, packaging, calendars, diaries, journals, lists, brochures, pamphlets, literature, publications., advertising, minutes or records of meetings, computations, tabulations, compilations, computer printouts, bills, statements, invoices, vouchers, bill of lading, receipts,



schedules, purchase orders, agreements, books of original entry, accounts, checks, tape records, phone records, photostats, motion pictures, slides, photographs, sketches, drawings, charts, graphs, diagrams, microfiche, video records, transcripts, specifications, change orders, schematics, manuals, design history files, and other similar objects, or any other written, printed, recorded, electronic, taped, graphic, or video matter or tangible thing on which any words, phrases,

information or data are communicated, stored, affixed or conveyed, or any information contained in any computer, computer memory or memory media, although not yet printed; and

(b) such documents, wherever located, whether in the files of any agent, consultant, representative, or attorney, or in any file in your active or constructive possession, custody or control.

A draft or non-identical copy, including an otherwise identical copy but for handwritten matter, is a separate document within the meaning of this term.

5. "Person" means any natural person or any business, legal or governmental entity, or association.

6. "Concerning" means relating to, referring to, describing, evidencing, supporting, refuting or constituting.

7. "Relating to" means concerning, referring to, describing, evidencing, supporting, refuting or constituting.

8. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside its scope.

9. The term "state the basis" means to describe every fact, study, opinion, analysis and inference concerning the subject matter.

10. When referring to a natural person, "to identify" means to give the person's full name, present or last known title or position, present or last known address, and present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

11. When referring to a business, legal or governmental entity or association, "to identify" means to give the name and address of the business, legal or governmental entity or association. Once a business, legal or governmental entity or association has been identified in accordance with this subparagraph, only the name of that business, legal or governmental entity or association need be listed in response to subsequent discovery requesting the identification of that business, legal or governmental entity or association.

12. When referring to documents, "to identify" means to state the type of document, its general subject matter, the date of the document, its author(s), its addressee(s), its recipient(s), its present location and its substance, or to attach a copy to your answer.

13. When referring to communications, "to identify" means to give the date of the communication, the identity of the person making the communication, the identity of the person who received the communication and the sum and substance of the communication.

14. The term "identify," when used with respect to a trademark or trademark application, means to give, to the extent known:

- (a) its country, trademark and/or application number;
- (b) its dates of filing, publication, and grant;
- (c) the names of the owners or applicants;
- (d) the description of the associated goods or services;
- (e) the identity of each counterpart, U.S. and foreign; and
- (f) the docket number or other designation thereof used by

Applicant to identify it in its files.

15. The term "Applicant's Mark" or "BIO-SOL" shall refer to and include, but not by way of limitation, the mark BIO-SOL, which is the subject of Trademark Application Serial No.

85/893,885 and Opposition No. 91213573, and identified in the

Notice of Opposition and/or any other "BIO-SOL" mark claimed to be owned or used by the Applicant.

16. The term "Opposer's Mark" shall refer to the mark "BIO SOLVE" and "BIOSOLVE" as identified in the Notice of Opposition.

### INTERROGATORIES

#### INTERROGATORY NO. 1

Identify all marks considered by Applicant during the selection process that resulted in the selection/adoption of Applicant's Mark.

#### INTERROGATORY NO. 2

State the date on which Opposer's Mark first became known to Applicant and, describe in detail the circumstances surrounding such awareness including, without limitation, the manner in which Applicant learned of Opposer's Mark, the individuals involved and their location, and the nature of the goods and/or services associated with the Opposer's Marks.

#### INTERROGATORY NO. 3

Describe all circumstances surrounding each of Applicant's officers' and directors' respective first knowledge of Opposer, including the names, addresses, relationship to Applicant, and dates of employment, if applicable, of all persons known to

Applicant having such knowledge, the earliest date that each such person gained such knowledge, and the means by which each such person gained such knowledge, including identification of all documents or conversations relevant to the manner in which each such person gained such knowledge and communicated such knowledge to Applicant.

INTERROGATORY NO. 4

Identify each officer, director, and/or manager of Applicant and their office locations.

INTERROGATORY NO. 5

Identify any and all known uses by third parties of Applicant's Mark.

INTERROGATORY NO. 6

Identify each document relating to or describing any proposal to use, the consideration of, and or the reasons advanced for and against the use of Applicant's mark.

INTERROGATORY NO. 7

(a) Describe the business(es) conducted by Applicant, including, but not limited to the nature of all goods or services offered to the customers of the Applicant, both under

or in connection with the "BIO-SOL" Mark and under or in connection with other marks; and

(b) Identify by name each product or service ever sold or furnished by Applicant under or in connection with any "BIO-SOL" Mark, including, but not limited to, all products or services provided in connection with Applicant's business.

INTERROGATORY NO. 8

(a) Identify each state in which Applicant is qualified or licensed to do business and identify each state and location (by address) in/at which Applicant is in fact doing business; and

(b) Identify all locations, geographical areas or territories in which Applicant intends or plans to market any product or service under any of Applicant's Mark in the future, identify the goods or services to be marketed or sold, identify all future target customers, identify all known existing or potential franchisees, specify the dates when sales in such geographical areas are planned or expected, and specify the exact name(s) and mark(s) under which such services and/or goods will be marketed and/or offered.

INTERROGATORY NO. 9

Identify all of Applicant's directors, officers, sales and marketing managers, franchising managers, and the like, as well

as all other individuals who are in any way associated or affiliated with Applicant who have or have had any input whatsoever in adopting or directing the manner in which each identified "BIO-SOL" Mark has been used in advertisements and promotional materials, and for each individual identified, specify that individual's role in such activities.

INTERROGATORY NO. 10

Has Applicant ever conducted or had conducted on its behalf any search or investigation or received any opinion concerning availability and possible conflicts arising out of Applicant's adoption/usage or adoption of any "BIO-SOL" Mark in connection with any goods or services and, if so, identify, state, and fully describe the date on which each such search, investigation, or opinion was performed or rendered; the person(s) conducting such search, investigation, or opinion was performed or rendered; the person(s) conducting such search or investigation or rendering such opinion; and all documents referring to, relating to, or prepared in connection with such search, investigation, or opinion.

INTERROGATORY NO. 11

Has Applicant ever caused a survey, poll or study to be made, on a formal or informal basis, relating to Applicant's

usage of any "BIO-SOL" Mark in connection with the marketing advertising, promotion, identification, sale, or distribution of any goods or services, including, but not limited to, any survey, poll or study involving possible confusion with any marks used by Opposer? If so, please identify the date of each survey, poll or study, the names and addresses of each person involved in conducting the survey, poll or study, and all documents generated in connection with the survey, poll or study.

INTERROGATORY NO. 12

Identify whether Applicant has obtained any legal opinions regarding Applicant's Mark, whether in relation to the development of Applicant's Mark or to this Opposition and identify the general subject matter of the opinion, the date of the opinion, and the individual or firm responsible for preparing such opinion.

INTERROGATORY NO. 13

State in detail the circumstances known to Applicant of any instance(s) of actual confusion between Applicant's goods or services and those of Opposer, including without limitation, any misdirected mail, telephone calls, orders, inquires, complaints, or comments received by Applicant that were intended for Opposer



or any of the agents or licensees. State the date(s) of any such instances, the person(s) involved, and identify all documents relating thereto.

INTERROGATORY NO. 14

State annual advertising and promotional costs of Applicant attributable to goods and services promoted under or in connection with Applicant's Marks for each year to date.

INTERROGATORY NO. 15

State whether Applicant was aware of Opposer's prior use of the mark at the time Applicant decided to adopt and use it's mark in the U.S. and/or elsewhere.

INTERROGATORY NO. 16


State the earliest date on which any officers or directors of Applicant first became aware of the registered trademark "BIO SOLVE" and "BIOSOLVE".

INTERROGATORY NO. 17

Identify all channels of trade through which Applicant has distributed any products.

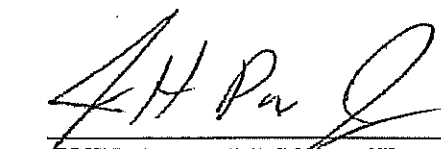
Respectively submitted,  
THE BIOSOLVE COMPANY, INC.  
By:

Date: February 3, 2014

  
\_\_\_\_\_  
JOHN H. PEARSON, JR.  
WALTER F. DAWSON  
PEARSON & PEARSON, LLP  
Gateway Center  
10 George Street  
Lowell, Massachusetts 01852  
Tel: 978.452.1971  
Fax: 978.453.8887  
[patlaw@pearson-pearson.com](mailto:patlaw@pearson-pearson.com)

CERTIFICATE OF SERVICE

If hereby certify that a copy of the attached Opposer's First Set of Interrogatories to Applicant has been served on the Opposer, by via email and mailing a copy thereof, first class, postage prepaid to their attorneys, Annette P. Heller, Esquire, Heller & Associates, 400 Chesterfield Ctr., Suite 400, Chesterfield, Missouri 63017-4800, this 3<sup>rd</sup> day of February, 2014.

  
\_\_\_\_\_  
JOHN H. PEARSON, JR.

C:\data\BioSolve\36013\TTAB\First Set of Interrogatories

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE BIOSOLVE COMPANY,	)	Opposition No: 91213573
Opposer,	)	
	)	Mark: BIO-SOL
V.	)	
	)	Serial No.: 85/893,885
BIOCENOSIS SOLUTIONS, INC.	)	
Applicant.	)	

OPPOSER'S FIRST SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT

PLEASE TAKE NOTICE that pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations § 2.120(d)(2), the Opposer, The BioSolve Company, by its attorneys, Pearson & Pearson, LLP, hereby requests that the Applicant, Biocenosis Solutions, Inc., produce the following documents and things for inspection, copying and/or testing at the office of Pearson & Pearson, LLP, 10 George Street, Lowell, Massachusetts, within 30 days.

DEFINITIONS AND INSTRUCTIONS

1. "Applicant" or "Biocenosis" means the applicant, Biocenosis Solutions, Inc., as well as its predecessors, parents, subsidiaries, affiliates, successors and assigns, and all current and former representatives, agents, employees,

attorneys, consultants, officers, directors and brokers of all the aforementioned entities.

2. "Opposer" or "BioSolve" means the Opposer, The BioSolve Company, as well as its predecessors, parents, subsidiaries, affiliates, successors and assigns, and all current and former representatives, agents, employees, attorneys, consultants, officers, directors and brokers of all the aforementioned entities.

3. "Communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

4. "Documents" is used in the broadest sense allowable under Rule 34 of the Federal Rules of Civil Procedure and includes but is not limited to the original and all non-identical copies of:

(a) all communications, letters, telegrams, reports, cablegrams, telecopies, correspondence, electronic mail, memoranda, records, reports, notes, post-its, papers, contracts, logs, labels, packaging, calendars, diaries, journals, lists, brochures, pamphlets, literature, publications, advertising, minutes or records of meetings, computations, tabulations, compilations, computer printouts, bills, statements, invoices, vouchers, bill of lading, receipts, schedules, purchase orders, agreements, books of original entry, accounts, checks, tape records, phone records, photostats,

motion pictures, slides, photographs, sketches, drawings, charts, graphs, diagrams, microfiche, video records, transcripts, specifications, change orders, schematics, manuals, design history files, and other similar objects, or any other written, printed, recorded, electronic, taped, graphic, or video matter or tangible thing on which any words, phrases, information or data are communicated, stored, affixed or conveyed, or any information contained in any computer, computer memory or memory media, although not yet printed; and

(b) such documents, wherever located, whether in the files of any agent, consultant, representative, or attorney, or in any file in your active or constructive possession, custody or control.

A draft or non-identical copy, including an otherwise identical copy but for handwritten matter, is a separate document within the meaning of this term.

5. "Person" means any natural person or any business, legal or governmental entity or association.

6. "Concerning" means relating to, referring to, describing, evidencing, supporting, refuting or constituting.

7. "Relating to" means concerning, referring to, describing, evidencing, supporting, refuting or constituting.

8. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring

within the scope of the request all responses that might otherwise be construed to be outside its scope.

9. The term "Applicant's Mark" or "BEST OF CLASS" shall refer to and include, but not by way of limitation, the mark BEST OF CLASS, which is the subject of Trademark Application Serial No. 85/893,885 and Opposition No. 91199997, and identified in the Notice of Opposition and/or any other "BEST OF CLASS" mark claimed to be owned or used by the Applicant.

10. The term "Opposer's Mark" shall refer to mark "BIO SOLVE", as identified in the Notice of Opposition.

#### DOCUMENT REQUESTS

1. All documents and things referring or relating to the creation or conception of Applicant's Mark including, without limitation, minutes of board meetings, internal memoranda, and correspondence with third parties.

2. All documents and things referring or relating to the selection and adoption of Applicant's Mark for use in commerce including, without limitation, minutes of board meetings, internal memoranda, and any correspondence with outside consultants.

3. Documents and things sufficient to identify the officers, director, and/or managers of Applicant since prior to the selection and adoption of Applicant's Mark.

4. Documents and things sufficient to identify the corporate structure of Applicant.

5. All documents and things used for or consulted in the preparation of Applicant's responses to Opposer's First Set of Interrogatories.

6. All searches, reports, or investigations prepared by or on behalf of Applicant relative to Applicant's Mark.

7. All federal, state and foreign trademark applications filed by or on behalf of Applicant.

8. All documents and things indicating or evidencing Applicant's knowledge of any of Opposer's Marks prior to the conception and adoption of Applicant's Mark.

9. All documents and things indicating or evidencing Applicant's knowledge of any of Opposer's Marks prior to the first use of Applicant's Mark.

10. Copies of all specimens filed with the U.S. Trademark Office in connection with any and all applications filed for Applicant's Mark including, without limitation, Application Serial No. 85/893,885.

11. Copies of all specimens filed with the U.S. Trademark Office in connection with Application Serial Number 85/893,885.

12. Copies of all specimens filed with any state or foreign trademark governing authority in connection with any

trademark application for Applicant's Mark or the term "BEST OF CLASS."

13. Specimens of all advertising and promotional materials bearing Applicant's Mark.

14. Specimens of all goods sold in connection with Applicant's Mark.

15. Specimens of all labels bearing Applicant's Mark.

16. Specimens of all molds, patterns, dies, patterns, or masks used to inscribe, engrave, etch, mark, or form Applicant's Mark into or onto goods.

17. Specimens of all displays bearing Applicant's Mark including, without limitation, point-of-sale and trade show displays.

18. All documents identifying the exact nature of the goods and/or services offered or intended to be offered for sale in connection with Applicant's Mark.

19. All documents and things referring or relating to any transfer of rights in Applicant's Mark including, without limitation, trademark assignments, licenses, or right-to-use agreements.

20. All documents and things referring or relating to the date of first use of Applicant's Mark in interstate commerce including, without limitation, pro-forma invoices, sales invoices, packing slips, or other sales related documents.



21. All documents accompanying the first sale of goods in conjunction with Applicant's Mark in commerce.

22. All documents referring or relating to the continual use of Applicant's Mark in commerce since the date of first use including, without limitation, pro-forma invoices, sales invoices, packing slips, or other sales related documents.

23. All documents and things referring or relating to expenditures for the marketing and advertisement of goods and services sold in connection with Applicant's Mark for each year since its adoption including, without limitation, the channels of marketing and advertisement, the dates of marketing and advertisement, the volume of marketing and advertisement, and the costs of marketing and advertisement.

24. All documents and things referring or relating to distribution of goods sold in connection with Applicant's Mark, including, without limitation, the channels of sale, the dates of sale, the monthly volume of sale to each entity, and the costs associated with each sale.

25. All documents and things referring or relating to the geographic scope of the advertising, distribution, and sale of goods and/or services that are sold or expected to be sold in connection with Applicant's Mark.

26. All documents and things referring or relating to or identifying the actual and prospective purchasers of goods

and/or services sold in connection with Applicant's Mark including, without limitation, Applicant's customer lists, prospective customer lists, and mailing lists.

27. All documents and things referring or relating to the sophistication of the purchasers of goods and services bearing Applicant's Mark including, without limitation, any and all market studies, reports, or investigations performed by or on behalf of Applicant.

28. All documents and things referring or relating to revenues from the sale of goods bearing Applicant's Mark.

29. All documents and things referring or relating to instances of confusion as to the sponsorship or affiliation of Applicant or Applicant's goods and services with Opposer or Opposer's goods and services including, without limitation, misdirected communications or correspondence, complaints, or inquiries.

30. All documents and things referring or relating to any expansion in the use of Applicant's Mark including, without limitation, the geographical scope of sales, use of Applicant's Mark on additional products, or changes in the channels of trade.

31. All documents and things referring or relating to the use by a third party of Applicant's Mark, or any variations thereof

32. All documents and things referring or relating to the use by a third party of any of Opposer's Marks, or any variations thereof.

33. All consumer surveys, tests, investigations, or studies involving Applicant's Mark.

34. All consumer surveys, tests, investigation, or studies involving Opposer's Marks.

35. Any and all legal opinions or opinions of counsel relating to any of the issues presented in this Opposition.

36. All documents and things containing or otherwise referring or relating to Opposer's Marks.

37. All documents and things containing or otherwise referring or relating to Opposer.

38. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 10 of the Notice of Opposition.

39. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 11 of the Notice of Opposition.

40. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 12 of the Notice of Opposition.

41. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 16 of the Notice of Opposition.

42. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 17 of the Notice of Opposition

43. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 18 of the Notice of Opposition

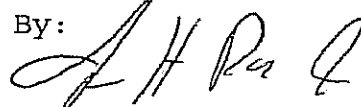
44. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 19 of the Notice of Opposition

45. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 21 of the Notice of Opposition.

46. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 22 of the Notice of Opposition.

47. All documents and things referring or relating to Applicant's denial of the allegations in Paragraph 23 of the Notice of Opposition.

Respectively submitted,  
THE BIOSOLVE COMPANY  
By:



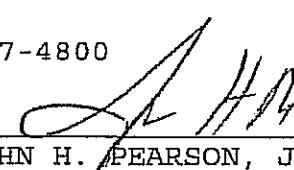
Date: January 29, 2014

JOHN H. PEARSON, JR.  
WALTER F. DAWSON  
PEARSON & PEARSON, LLP  
Gateway Center  
10 George Street  
Lowell, Massachusetts 01852  
Tel: 978.452.1971  
Fax: 978.453.8887  
patlaw@pearson-pearson.com

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing  
OPPOSER'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS  
AND THINGS TO APPLICANT UNDER FEDERAL RULES OF CIVIL PROCEDURE  
26(a)(1) upon Applicant's counsel by depositing one copy  
thereof via email and in the United States Mail, first-class  
postage prepaid, on January 29, 2014.

Annette P. Heller, Esq.  
Heller & Associates  
400 Chesterfield Ctr.  
Suite 400  
Chesterfield, Missouri 63017-4800



JOHN H. PEARSON, JR